

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBERT MCCORKLE,

Plaintiff,

v.

A.W. CHESTERTON COMPANY, et al.,

Defendants.

No. C 07-1284 PJH

**ORDER GRANTING REMAND
AND VACATING HEARING DATE**

On April 10, 2007, the court issued an order granting plaintiff's application for an order shortening time to hear plaintiff's motion to remand, and scheduled a hearing on the motion for this Wednesday, April 18, 2007. The court also noted that remand would likely be granted, since the only defendant with a potential basis for federal jurisdiction has now been dismissed. Notwithstanding its observation, the court granted defendants until April 13 to oppose plaintiff's remand motion, and plaintiff was given until April 16 to file a reply brief.

The deadline for the filing of any opposition or reply brief has now passed, and none have been filed. Accordingly, and in light of its prior observation that no federal subject matter jurisdiction has been invoked by any proper defendant to this action, the court finds the instant motion appropriate for decision without further oral argument, and hereby GRANTS plaintiff's motion to remand the case to state court. See Civil L.R. 7-1(b); Fed. R. Civ. P. 78; see also, e.g., Lake at Las Vegas Investors Group, Inc. v. Pacific Malibu Dev. Corp., 933 F.2d 724, 729 (9th Cir. 1991)(holding that the court's consideration of the moving and opposition papers is deemed an adequate substitute for a formal hearing), cert. denied, 503 U.S. 920 (1992).

Accordingly, the April 18, 2007 hearing date is VACATED.

IT IS SO ORDERED.

Dated: April 17, 2007



PHYLLIS J. HAMILTON
United States District Judge